

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

NATHANIEL G. TUCKER,

Petitioner,

Re: Motion for Relief Requesting  
Transport to Montana State Prison.

CV 21-51-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on June 25, 2021. (Doc. 4). The Magistrate recommended the Tucker's action be dismissed for failure to prosecute because he failed to respond to the Court's order to file an amended petition. (Doc. 4 at 1). Additionally, Judge Cavan noted that it appears Tucker has already received the relief he sought. (Doc. 4 at 1, FN1).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 4) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Tucker's Petition (Doc. 1) is DISMISSED. The Clerk of Court shall enter a judgment of dismissal by separate document and a certificate of appealability is DENIED.

DATED this 13<sup>th</sup> day of July 2021.

  
\_\_\_\_\_  
SUSAN P. WATTERS  
United States District Judge